IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.2518 OF 1998

Devre Ashok Dhila ..Petitioner
Vs.
State of Maharashtra & Ors. ..Respondents

Mr.A.M.Joshi for Petitioner
Mr.Sachin Kadam i/b. Mr. Deepak More for Respondent No.5.

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 21ST APRIL, 2005.

P.C.

. Petitioner possesses qualifications of B.A. B.Ed. Petitioner came to be appointed as Assistant Teacher for the first time by an order of appointment dated 4th July, 1989 with effect from 4th July, 1989, in Respondent No.6 School. Petitioner is in continuing service since then. The School was on nongrant basis from 1989 to 1993 and came to be 100% grant-in-aid School from the academic year 1993. The first approval order was given by Administrative Officer, Municipal School Board on 30th July, 1993.

2. It is the case of the Petitioner that various orders would clearly indicate that the Petitioner was appointed as a Graduate Teacher in the Degree Scale. It is the further case of the Petitioner that the School has First to Seventh

classes.

3. The present Petition came to be filed pursuant to the reduction of the Petitioner's pay scale from 1st March, 1998 from Rs.1400-2600 to Rs.975-1660, which is the pay scale of an untrained teacher. This was based on circular issued by the State Government which took a view that teachers teaching in Primary school but do not possess D.Ed. were deemed to be untrained teachers.

4. A similar issue came for consideration before us in Writ Petition No.4632 of 1999 and other Petitions which were disposed of by common order dated 6th May, 2004. From the Government circulars it is clear that in schools having First to Seventh Class/standards 25% of the posts can be recruited from amongst graduate trained teachers. Trained graduate teachers will be entitled to the trained scale. This judgment therefore squarely apply to the Petitioner herein, if the Petitioner falls within the said 25% quota.

5. Considering that, the following order:-

a). Respondent NO.4 is directed after hearing the Petitioner and Respondent No.6.

Management to decide whether the Petitioner falls within a 25% quota for trained graduate teachers. If the Petitioner falls within the said 25% quota then in that event the order reducing the Petitioner's pay scale from 1st March, 1998 will stand set aside.

b). Petitioner's pay scale will be re-fixed in trained graduate scale of 1400-2600 and thereafter in the corresponding pay scales as and when the scales are revised and consequently the Petitioner be paid all arrears and consequential benefits.

. The entire procedure is to be completed within four months from today.

. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)